

NOTE: CHANGES MADE BY THE COURT

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

DR. FREDERICK K.C. PRICE, an
individual,

Plaintiff,

v.

JOHN STOSSEL, an individual,
GLENN RUPPEL, an individual,
AMERICAN BROADCASTING
COMPANIES, INC., a Delaware
corporation, OLE ANTHONY, an
individual, and TRINITY
FOUNDATION, INC., an entity, form
unknown,

Defendants.

CASE NO. CV-08-03936 RGK (FFMx)

(The Honorable R. Gary Klausner)

**[PROPOSED] PROTECTIVE
ORDER**

[DISCOVERY MATTER]

[Fed. R. Civ. P. 26(c); L.R. 7-1]

The Honorable Frederick F. Mumm

(U.S. Magistrate Judge)

Discovery Cutoff Date: April 1, 2011
Trial Date: June 28, 2011

PROTECTIVE ORDER

Plaintiff Frederick K.C. Price ("Plaintiff"), Defendants John Stossel, Glenn Ruppel, and American Broadcasting Companies, Inc. (collectively, "ABC"); and Defendants Ole Anthony and Trinity Foundation, Inc. (collectively, "Trinity"); through their counsel of record, hereby stipulate to and jointly request that the Court enter a Protective Order as follows:

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1 A. Confidential Information. Writings (as that term is defined in Rule
2 1001 of the Federal Rules of Evidence) produced in discovery by any party to this
3 litigation, and/or by third parties in response to document or deposition subpoenas,
4 may be designated in whole or in part by any party or third party as
5 “CONFIDENTIAL,” pursuant to this Protective Order if such writings contain trade
6 secret information, personal financial information, personal address or telephone
7 information, or other information over which the producing party has a reasonable
8 expectation of privacy, secrecy or confidentiality, provided that any third party
9 making such designation agrees to be bound by the terms of this Protective Order.
10 Additionally, any party or third party witness may, for the same reasons, designate
11 deposition testimony as “CONFIDENTIAL” stating on the record that a deposition
12 or portion thereof shall be treated as confidential, or may make such designation
13 sometime thereafter, provided that any third party making such designation agrees to
14 be bound by the terms of this Protective Order. Writings designated as
15 “CONFIDENTIAL” and/or testimony designated as “CONFIDENTIAL,” and all
16 information derived therefrom, shall be treated as “Confidential Information”
17 pursuant to the provisions set forth below, for the purposes of discovery and the
18 filing of non-dispositive and case-dispositive motions.

19 B. Subject Matter of Confidential Information. “Confidential
20 Information” includes the following three categories of information: (1)
21 communications regarding the investigation, preparation and production of news
22 reports; (2) material gathered, collected and created in the course of investigating
23 and preparing news reports; and (3) information identified as private, such as
24 financial information, financial account numbers, personal information related to
25 Plaintiff’s claim for damages, and home addresses. All of these categories include
26 private and/or confidential information. For each of the first two (2) categories
27 identified above, such documents may be marked “CONFIDENTIAL” if the
28 marking or requesting party reasonably believes: (1) the information contains

1 confidential proprietary information; or (2) disclosure of such commercially
2 sensitive information could reasonably harm competitive advantage, or foster a
3 competitive disadvantage; or (3) the disclosure of such confidential information
4 could impair or disrupt its business.

5 C. Designation of Confidential Information. All copies and each page of
6 writings or deposition testimony containing Confidential Information must be
7 marked "CONFIDENTIAL."

8 1. If a party wishes to designate testimony or an exhibit as
9 "CONFIDENTIAL" during the course of a deposition in this action, it shall do so by
10 stating such designation on the record.

11 2. The "CONFIDENTIAL" designation shall constitute a
12 representation by counsel for the party or third party making the designation that the
13 designated writings or deposition testimony constitute Confidential Information as
14 set forth in paragraphs A and B of this Protective Order.

15 3. A party or third party that inadvertently fails to mark an item as
16 "CONFIDENTIAL" shall have ten (10) days after the discovery of the inadvertent
17 production to so mark the item, except that with respect to all items produced but
18 not publicly filed prior to the entry of this Protective Order, such items may be
19 designated as "CONFIDENTIAL" within fifteen (15) days of the entry of the
20 Protective Order and from such time will be treated as Confidential Information
21 pursuant to this Protective Order. Such designation and notice thereof shall be made
22 in writing, accompanied by substitute copies of any documents marked as
23 "CONFIDENTIAL."

24 D. Objection to Designation of Confidential Information. If any party
25 objects to the designation of any writing or deposition testimony as Confidential
26 Information, and the objection cannot be resolved by agreement of counsel, the
27 writing or deposition testimony shall be treated as Confidential Information and
28 subject to this Protective order, unless otherwise ordered by the Court upon motion

1 made by the objecting party pursuant to the applicable rules of procedure. The party
2 designating writings or deposition testimony as Confidential Information shall bear
3 that burden of proof on any such motion.

4 E. Disclosure of Confidential Information. Subject to the further
5 conditions imposed by this Protective Order, Confidential Information may be
6 disclosed, summarized, described, characterized, or otherwise communicated or
7 made available in whole or in part only to the following persons and only for the
8 purposes of and as is necessary for this litigation and shall not be used for any other
9 purpose whatsoever:

10 1. The Parties, and each of his or her or its agents and employees.

11 2. Counsel for the parties and their support employees, all of whom
12 shall be deemed bound by the terms of this Protective Order upon counsel's
13 signature.

14 3. A court reporter transcribing any proceeding in this action and
15 that person's support employees.

16 4. The Court and its support employees.

17 5. Consulting experts or expert witnesses who agree to be bound by
18 the terms of this Protective Order, and the expert's support employees, who shall be
19 deemed bound by the terms of this Protective Order upon their employer's
20 signature.

21 6. Witnesses or potential witnesses related to this action in
22 proceedings before this Court, including depositions, provided, however, such
23 witnesses may not be given a copy of any Confidential Information and may only be
24 shown Confidential Information. Confidential Information may be attached as a
25 deposition exhibit provided that no witness retains a copy of a deposition transcript
26 that includes Confidential Information.

27 7. A mediator, arbitrator, or other settlement officer who renders
28 service in this action, and that persons' support employees.

1 8. Such other persons as the Parties may agree or the Court may
2 order.

3 F. Acknowledgement Regarding Confidential Information. Prior to the
4 disclosure of any Confidential Information to any individual described in paragraphs
5 E(5)-(8), counsel for the party that has received and seeks to use or disclose such
6 Confidential Information shall first provide a copy of this Protective Order, and
7 shall cause the individual to execute, on a second copy which counsel shall
8 thereafter retain, the following acknowledgment:

9 “I understand that I am being given access to Confidential Information
10 pursuant to the foregoing Protective Order. I have read the Protective
11 Order and agree to be bound by its terms with respect to
12 the handling, use and disclosure of such Confidential Information.”

13 Dated: /s/

14 G. Return of Confidential Information. Upon the termination of this
15 litigation, including any appeal pertaining thereto, all Confidential Information and
16 all copies thereof shall be returned to the producing party, except that counsel shall
17 be entitled to retain one copy of all documents produced, copies of all pleadings,
18 briefs, declarations or other papers filed with the Court, all material which
19 constitutes work product and such memoranda embodying Confidential Information
20 to the extent necessary to preserve a file in this matter, so long as such materials are
21 maintained in accordance with the provisions hereof, during and after the pendency
22 of this litigation. All Confidential Information disclosed to any person or party
23 pursuant to any provision hereof also shall be returned as set forth above.

24 H. Subpoena or Request for Confidential Information. If any party who
25 receives Confidential Information receives a subpoena or other request seeking
26 Confidential Information, he, she or it shall immediately give written notice to
27 opposing counsel, identifying the Confidential Information sought and the time in
28 which production or other disclosure is required, ~~and shall object to the request or~~

1 ~~subpoena on the grounds of this Protective Order so as (FFM)~~ to afford opposing
 2 counsel an opportunity to obtain an order barring production or other disclosure, or
 3 to otherwise respond to the subpoena or other request for production or disclosure of
 4 Confidential Information. **Nothing herein shall be construed as limiting the**
 5 **obligation of any party to comply with any subpoena or other court process.**
 6 **Any relief from complying with any such subpoena or other court process must**
 7 **be obtained from the issuing court. (FFM)**

8 I. Submission of Confidential Information to the Court. To the extent the
 9 submission of Confidential Information to the Court is necessary, the Parties shall
 10 proceed according to the procedures set forth in Local Rule 79-5 of United States
 11 District Court for the Central District. Consistent with Local Rule 79-5, the party
 12 seeking to submit the Confidential Information shall submit an application, a
 13 proposed order, and the Confidential Information for filing under seal, and may file
 14 the Confidential Information under seal only if the Court so orders.

15 J. Limitations of Protective Order. Notwithstanding any other provision
 16 herein, and without prejudice to the right of any person to seek any additional
 17 protective order or modification of this Protective Order, this Protective Order is not
 18 intended to be and shall not be construed as (1) a ruling on the admissibility of any
 19 Confidential Information; (2) a waiver of any objection to the production or use of
 20 any Confidential Information on grounds of privacy, relevance, confidentiality,
 21 privilege, undue burden, authenticity, foundation, admissibility or otherwise; (3) a
 22 ruling requiring the production of any Confidential Information; (4) a limitation on
 23 the right of any party to disclose Confidential Information to any person who
 24 authored the Confidential Information.

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1 K. Additional Protective Order(s). This Protective Order shall be without
2 prejudice to the right of the parties to this litigation to present a motion to the Court
3 for a separate protective order or for modification of this Protective Order pursuant
4 to the applicable rules of procedure.

5 DATED: January 21, 2011

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7 /S/ FREDERICK F. MUMM

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Frederick F. Mumm
U.S. Magistrate Judge